

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1020

United States of America,

Appellee,

v.

Angel Cena-Vargas,

Appellant.

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* Appeal from the United States
* District Court for the Northern
* District of Iowa.
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• [Unpublished]
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Submitted: October 29, 2004

Filed: November 17, 2004

Before RILEY, McMILLIAN, and GRUENDER, Circuit Judges.

PER CURIAM.

Angel Cena-Vargas appeals from the final judgment entered in the District Court¹ for the Northern District of Iowa upon his guilty plea to illegally reentering the United States after deportation following a conviction for an aggravated felony in violation of 8 U.S.C. § 1326(a) and (b)(2). The district court sentenced appellant to 77 months imprisonment and 3 years supervised release.. On appeal, his counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was too harsh.

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.

This argument fails, as the sentence falls within § 1326(b)'s 20-year maximum and is at the bottom of the appropriate Guidelines range. See 18 U.S.C. § 3742(a); United States v. Smotherman, 326 F.3d 988, 989 (8th Cir.) (per curiam), cert. denied, 124 S. Ct. 293 (2003). Having found no nonfrivolous issues after reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we affirm. We also grant counsel's motion to withdraw.
